

Human Rights, Transnational Actors and the Chinese Government: Another Look at the Spiral Model

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This article assesses the usefulness of Thomas Risse, Stephen Ropp and Kathryn Sikkink's spiral model as an explanation of the changes in the Chinese government's human rights practices from the time of the 'anti-rightist' campaign in 1957–1958 to the end of 2003. It is concluded that the spiral model has provided a valid explanation for many of the changes in the Chinese government's human rights practices, and its responses to its internal and external critics, over this time period. Many of the responses of the transnational human rights network and the Chinese government by the end of this period indicate that the latter had progressed to phase three of the model. It is also concluded that the spiral model only conceptualises part of the constitutive relationship between the target state and international human rights norms—the influence of these norms on the identities, interests and behaviours of a target state. It does not conceptualise the influence of a target state on international human rights norms or the transnational human rights network. Therefore, the spiral model cannot explain why the Chinese government has had such a significant influence over the enforcement mechanisms of these norms.

Introduction

While being instrumental in liberating the Chinese from the brutal occupation of the Japanese, Chinese Communist Party (CCP) rule in China since 1949 has resulted in widespread human rights abuses including arbitrary detentions, torture and executions. Such repression reached peaks during campaigns such as the 'anti-rightist' campaign from 1957 to 1958, the Great Leap Forward in 1958, the Cultural Revolution from 1966 to 1976, the repression of those involved in the Democracy Wall movement in 1978, and the Tiananmen Square massacre in 1989. This article explores the responses of democratic states and United Nations (UN) human rights bodies, as well as the activities of international and domestic human rights groups, to reports of these human rights abuses in China since the time of the first campaign resulting

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in widespread abuses, the 'anti-rightist' campaign of 1957–1958 to 2003. This article also explores the reactions and changed practices of the Chinese government to the responses of these internal and external groups, in order to ascertain whether these groups have had any impact on human rights practices in China over this time period.

As part of these explorations, the five-phase spiral model of Thomas Risse, Stephen Ropp and Kathryn Sikkink (1999) will be tested in order to assess whether it is a useful explanation of the changes in human rights practices of the Chinese government from 1957 to 2003. Adopting a constructivist approach, the spiral model's five phases highlight how a network of domestic and international human rights non-government organisations (NGOs), UN bodies and states promoting international human rights norms may be able to influence a target state's identity, interests and behaviours through particular socialisation processes (Risse & Sikkink 1999). A state's identity is how it defines itself compared with other states, and this definition subsequently provides 'guidance for how [the state] should behave in a given context' (Thomas 2001, p. 13). The socialisation processes a target state may experience are changes, resulting from interactions with others, in the way actors 'understand, process, interpret and act upon lessons that are "taught"' by particular agents (Johnston 2001, p. 492). Engaging with these socialisation processes can bring about changes to a target state's identity, interests and behaviours such that these reflect the norms promoted by the transnational network.

According to constructivists, 'norms are collective understandings that make behavioural claims on actors'. Norms do not merely regulate behaviour, however, '[t]hey constitute actor identities and interests' (Checkel 1998, p. 327). The network of domestic and international actors that promote these norms is described by Risse *et al.* as a transnational human rights network. This network is issue-specific and comprised of a diverse range of actors sharing common values and a common identity, as well as sharing resources and exchanging information (Burgerman 1998, pp. 907–908; Keck & Sikkink 1998; Risse & Sikkink 1999, pp. 17–18).

In order to be able to assess the impact of a transnational human rights network on a target state, Risse *et al.* limited the particular human rights to be explored in their research to two core rights—the right to life, or freedom from extrajudicial execution and disappearance, and the right to have freedom from torture, arbitrary arrest and detention. These rights have been largely accepted as universal (Risse & Sikkink 1999, p. 2). Rights that refer to 'bodily harm to vulnerable individuals' such as torture and disappearances also tend to find greater degrees of transnational support than other rights (Keck & Sikkink 1998, p. 27). Therefore, here there will also be a focus on these two core rights.

Using a social constructivist approach, various writers have examined the conditions under which a transnational network of actors promoting particular norms has been effective in changing the identities, interests and practices of a target state (Risse-Kappen 1994, 1995; Klotz 1995; Finnemore 1996; Burgerman 1998). These studies have contributed to international relations a deeper understanding of the factors involved in bringing about changes in state policies and behaviours. Risse *et al.*'s 1999 study expanded on these by including a wide range of states as

case studies and identifying phases that specify the nature of the impact of international human rights norms on a state, given particular actions of the transnational human rights network.¹ By testing the spiral model in the case of China, a significant international power with military and economic might far greater than any of Risse *et al.*'s cases, this article seeks to further this understanding.

A number of studies have focused on the socialisation of the Chinese government according to international human rights norms. While not comprehensively assessing the spiral model as a framework, Rosemary Foot concluded that the Chinese government had become 'caught up in the rhetoric' of international human rights norms such that it could be considered to be between phases three and four of the spiral model, and that it had been able to influence the enforcement mechanisms of these norms (Foot 2000, pp. 256, 270–272).² In her exploration of the Chinese government's involvement with UN human rights bodies, Ann Kent also concluded that China had become somewhat socialised according to international human rights norms, as well as having attempted to influence the operations of these UN bodies (Kent 1999a, p. 242). In contrast, Ming Wan concluded that realism could account for more of the Chinese government's responses to the pressures placed on it by external actors than constructivist and institutionalist approaches (Ming Wan 2001, pp. 2, 13). Alan Wachman's assessment of the spiral model and China concluded that attempts by its external critics to shame it into improving its human rights practices had not worked (Wachman 2001, p. 262). However, Wachman attempted to assess the impact of shaming in isolation from other socialisation processes, effectively discounting the importance of the others. This article will expand on all of these studies by focusing more explicitly on the spiral model and its socialisation processes, not just shaming, as an explanation of the Chinese government's behaviour. In addition, this article will contribute to the social constructivist literature on that part of the constitutive relationship between norms and states that has been largely neglected by other studies, including Risse *et al.*'s—the influence of the target state on international norms.

The Spiral Model

The five-phase spiral model seeks to explain the socialisation of states according to international human rights norms promoted by a transnational network. According to the spiral model, phase one begins when there is a marked deterioration in the respect for human rights by a state. If domestic and international human rights NGOs can get information on human rights abuses out of the country, the state can be placed in the international spotlight and the situation can progress to phase two (Risse & Sikkink 1999, p. 23).

In phase two (denial), information on human rights abuses is disseminated internationally and the lobbying of international human rights organisations and democratic states commences. Attempts to persuade democratic states to speak publicly about the abuses in the target state are made by other transnational network actors. The responses of these actors often result in a denial response from the target state.

This can include statements denying the allegations and/or the validity of international human rights standards, and claims that international jurisdiction does not extend to the target state's internal human rights practices (Risse & Ropp 1999, p. 251). Despite the characteristics of this phase, denial is still considered to be part of socialisation as it reflects the fact that at least the state acknowledges that its international reputation has been tarnished, and the human rights concept is not usually rejected outright (Risse & Sikkink 1999, p. 23). The socialisation process in the denial phase is limited to instrumental adaptation. The responses of the target state—for example, releasing a political prisoner—are intended to reduce or avoid international pressure. This type of response does not necessarily imply acceptance of the validity of the human rights norms concerned, nor an acknowledgement of the factual validity of accusations. Instead, the target state's behaviour is more likely to be motivated by instrumental or material concerns such as bringing about the end of sanctions and public criticisms of its human rights record (Risse & Sikkink 1999, p. 12).

According to Risse *et al.*, the most difficult transition for transnational networks is getting the target state to the third phase (tactical concessions). Whether this can be achieved depends on the vulnerability of the state to international pressures and the relative strength of the transnational network (Risse & Sikkink 1999, p. 24). If pressure by the transnational network can be maintained, the target state may feel compelled to make tactical concessions—for example, releasing a few political prisoners. The primary opportunity to improve human rights in the third phase is via the encouragement of domestic opposition groups to mobilise and criticise the state in response to the transnational network's efforts (Risse & Sikkink 1999, p. 25).

The spiral model expects two kinds of socialization—namely, instrumental adaptation and argumentative discourses—to be generally evident in the third phase, with the latter type becoming increasingly prevalent. Argumentative discourses involve the target state and its critics engaging in argumentation and persuasion. These may include either the target state or its critics challenging the validity of what is communicated by the other, indicating that both the target state and its critics may 'agree on the moral validity of the norm, but disagree whether certain behaviour is covered by it' (Risse & Sikkink 1999, p. 13). This socialisation process may also involve critics utilising not just logical arguments in attempts to persuade a target state to alter its identity and interests, but techniques such as shaming.³ The socialisation effect of this process is stronger than for instrumental adaptation, as through engaging with argumentative discourses the target state finds itself repeatedly discussing the validity and meaning of international human rights norms. This increasingly affects its identity, the way it defines itself compared with other states, as it becomes 'normal' for the target state to engage in such discussions (Risse & Sikkink 1999, p. 16).

Phase four of the spiral model is reached when target states use international human rights norms in human rights discussions and the validity of these norms is no longer contested. Indications of this include the reflection of human rights norms in the constitution and domestic legislation, and apologies and compensation being given to

victims of abuses. Argumentative discourse is the type of socialisation most prevalent in this phase (Risse & Sikkink 1999, p. 29). Over time, phase five (rule-consistent behaviour) is expected to be reached if there is continued domestic and international pressure on a target state to alter its human rights practices. The dominant mode of socialisation here is institutionalisation and habitualisation where international human rights norms are no longer contested by the target state, institutionalised within domestic practices, and supported by the rule of law (Risse & Sikkink 1999, pp. 16–17, 31–34).

The Chinese Government and the Spiral Model

Many of the changes in the Chinese government's human rights practices, and its responses to its internal and external critics, from the time of the 'anti-rightist' campaign of 1957–1958 to the end of 2003, can be explained by the spiral model. By the end of this period, responses of the transnational human rights network and the Chinese government indicated that the latter had progressed to phase three of the model.

Phase one of the spiral model, repression and network activation, began in China in the late 1950s when the 'anti-rightist' campaign resulted in a significant increase in the abuses of the rights to freedom from torture, arbitrary arrest, detention and extrajudicial execution. But it was not until June 1989 that the Chinese government progressed to phase two of the model, when the repressive measures taken by the Chinese government in Beijing in response to the Tiananmen demonstrations resulted in the deaths of many.⁴ The significant international media presence in Beijing at the time of the killings meant that images of some of the repression were beamed throughout the world, mobilising a sense of outrage in many countries.⁵

The events in China from the latter half of 1989 to 1991 were largely consistent with phase two of the spiral model. A transnational human rights network developed, including international human rights NGOs, dissident Chinese groups, domestic human rights and other opposition activists and groups, UN bodies and democratic states, to pressure the Chinese government to change its behaviour consistent with international human rights norms. The development of this network was necessary given that the domestic structure of China had been largely dominated by a state not willing to engage with non-official opposition groups. Therefore, domestic groups opposing the human rights abuses of the Chinese government had few opportunities to access and influence government policy,⁶ and had to rely on international support to pressure the Chinese government to bring about human rights improvements.⁷

International human rights NGOs such as Amnesty International (AI) and Asia Watch were important sources of pressure through their dissemination of reports of abuses in China to UN bodies and democratic states, pressuring these actors to make further responses to the Chinese government. For example, Asia Watch was particularly active in lobbying the US Congress for further pressure to be placed on China, and focused more of its efforts on human rights abuses in China than in any other

Asian country throughout 1990 and 1991. Many US Congress members were concerned about human rights abuses in China and became reliant on information from human rights NGOs to inform their actions (Foot 2000, pp. 124–125; Human Rights Watch/Asia [HRW] 1990, 1991). Other NGO actions included AI, Asia Watch and the International Commission of Jurists lobbying the United Nations Commission on Human Rights (UNCHR) sub-commission to ensure China's human rights abuses were discussed at length at the August 1989 meeting (Foot 2000, pp. 118–120). An important source of information for these international NGOs consisted of the Chinese studying abroad at the time of the massacre, some of whom subsequently formed their own NGOs. These groups were more able to provide information on human rights abuses in China than activists within China, reflecting the fact that the repression in China was making it dangerous for Chinese citizens to have links with international human rights NGOs.⁸

Democratic states such as the United States, Australia, Canada and Norway, as well as the European Community (EC), responded to the pressures of these NGOs and the concerns of their own citizens by condemning the killings and calling for the Chinese government to cease the repression, and imposing largely symbolic sanctions.⁹ Many supported the resolution critical of China's human rights practices raised at the 1990 UNCHR session, and other UN human rights bodies also issued statements concerning the repression (Kesavan 1990, p. 671; Harding 1992, p. 263; Shambaugh 1992, p. 110; Kent 1993, pp. 187, 214–215; Nossal 1993, pp. 25–31; Foot 2000, pp. 114–214).¹⁰

In the aftermath of the massacre until the end of 1991 the Chinese government continued to repress those perceived to be in opposition to it and defended its actions in Tiananmen Square, as well as made some more positive responses to its internal and external critics. Internal groups and individuals that had been involved in the demonstrations, or later expressed sympathy for them, were targeted by the Chinese government and suffered from further repressive measures (HRW 1990; AI 1991b; Kinnvall 1995, p. 268). But the Chinese government's internal responses also included attempts to alleviate the suffering caused by economic development programmes, arguably the catalyst for the demonstrations, and granted some personal freedoms. In response to its external critics, the Chinese government denied that it had carried out human rights abuses without, however, denying the validity of the universal human rights concept itself. In addition, the state sovereignty principle was invoked and past human rights abuses of the colonial powers were highlighted. The Chinese government responded to the draft resolution sponsored at the UNCHR in 1990 with vigorous lobbying for a no-action motion (Kent 1993, pp. 197–215; Shue 2002, p. 214).¹¹ The Chinese government also encouraged the development of its own official discourse on human rights by hosting several conferences on human rights in China and encouraging the publication of articles on human rights (Zhou Wei 1995, p. 87). More positively, some of those involved in the demonstrations were released and the sentences of some of the others were reduced. More significant concessions began to be offered by the Chinese government towards the end of 1991 with the acceptance of human rights delegations from Australia and France to visit China (Foot 2000, pp. 126–127; Kent 1999a, p. 48).

While the spiral model expects the target state to practise instrumental adaptation in phase two, the Chinese government also engaged in argumentative discourses during its denial phase. The release of a number of demonstrators from detention and the reduction of the sentences of some of the others were concessions made by the Chinese government in 1990, indicating instrumental adaptation, since they were made just prior to US decisions on China's Most Favoured Nation (MFN) renewal status and whether to oppose World Bank loans to China (Foot 2000, pp. 124–127). Argumentative discourses were evident in the Chinese government's response to the 1990 UNCHR resolution when it argued over the details of the international criticisms of its human rights record, rather than challenging the validity of international human rights norms (Kent 1993, pp. 214–215).

That the Chinese government did engage in both of these socialisation processes in the denial phase, in contrast to Risse *et al.*'s cases, can be explained in part by China's prior engagement with the international human rights regime. By the late 1980s, the Chinese government's support of and involvement in various human rights treaties meant that it had already expressed support for at least some of the international human rights norms in the international arena (Cohen 1987, p. 537; Kim 1990, p. 200). Through this support and involvement, the Chinese government had indicated its understanding that support for international human rights norms was a precondition for being a great power. The desire to be seen as a great power in the international society of states reflected the Chinese government's dominant great-power identity. Thus it would have been very difficult for the government to reply to its critics by denying the validity of these human rights norms as this would have challenged its standing as a great power. Instead, the Chinese government felt compelled to argue with its critics about the substance of their criticisms, a characteristic of argumentative discourses.

China's prior engagement with the international human rights regime, as well as the importance it attached to being seen as a great power, also contributed to it experiencing a relatively short denial phase compared with Risse *et al.*'s cases. Other contributing factors were the massive media coverage of the events in Beijing in June 1989 that swiftly placed China on the agenda of the transnational human rights network, and the size of the network itself, which had grown by 1989 to encompass large numbers of NGOs and democratic states that included at least some emphasis on human rights in their foreign policies (Risse & Ropp 1999, pp. 264–267). As international human rights NGOs were disseminating details of killings, detention and torture—that is, abuses of those rights most likely to find transnational support—the degree of concern expressed worldwide was also greater than perhaps it would have been in response to reports of abuses of other rights.

The Chinese government's denial phase also differed from those of Risse *et al.*'s cases insofar as during this phase China began to exercise some influence over enforcement mechanisms of international human rights norms. For example, the Chinese government successfully organised a no-action motion at the 1990 UNCHR session in response to the draft resolution on its human rights record, preventing the resolution from going to a vote. In addition, the United States required China's support for the

UN resolution on Iraq in 1990, leading to the early easing of sanctions against China and no resolution on China being sponsored at the 1991 UNCHR session (Tessitore & Woolfson 1991, p. 154; Foot 2000, p. 123).

By 1991, pressures from international human rights NGOs and democratic states since 1989 had led the Chinese government to the concessions of releasing further political prisoners, encouraging an internal human rights discourse, and increasing its engagement with international human rights debates. The Chinese government's invitation of Australian and French human rights delegations to visit China at the end of 1991 and investigate its human rights record on its own soil reflected the degree to which the Chinese government was prepared to offer concessions in order to quieten its critics. These actions signalled that China was acknowledging the validity of human rights norms but trying to repudiate the factual validity of accusations, and indicated that it had entered the third phase of the spiral model (tactical concessions).

Throughout the period of phase three examined in this article (1991 to 2003), the Chinese government continued to make concessions in response to pressures from the transnational human rights network. International human rights NGOs continued to document and disseminate information on human rights abuses in China and lobby the democratic states and UN bodies to pressure the Chinese government to cease these abuses. For example, Human Rights Watch/Asia (HRW)¹² consistently lobbied the US Administration and Congress to pressure China over its human rights record through activities such as providing information on Chinese political prisoners to senior US government officials, testifying before congressional forums, and requesting presidential actions concerning particular prisoners (HRIC 2002a, p. 50; HRW 1991). AI branches in many democratic states continued to lobby their governments to place human rights issues in China on the agendas of government and trade visits to China.¹³ NGOs including AI, HRW and HRIC were also actively engaged in lobbying for support for resolutions on China leading up to the annual UNCHR sessions.¹⁴ The groups established by exiled Chinese dissidents and students continued to be an important source of information for international NGOs, given the ongoing dangers for human rights activists in China to have direct links with international human rights NGOs.¹⁵ The exiled dissidents also provided information on human rights abuses in China to states, particularly lobbying the US Congress during MFN debates and prior to US–Chinese government discussions (Kent 1993, p. 221; Kent 1999a).

Resolutions at the annual UNCHR sessions, except in 1991, were sponsored by many democratic states as their main expression of concern to the Chinese government until their support began to waver in 1997. The US government also had other responses at its disposal, including the annual debate about renewing China's MFN trading status with human rights conditions attached. This continued until 1994, when human rights ceased to be a condition of renewal. Strategic and security issues came to dominate US–China relations in the late 1990s, downplaying the US government's expressions of human rights concerns in China on some occasions. However, the US government did continue to be one of the few democratic states

to support resolutions on China at the UNCHR after 1998, lending its support at the 1999 and 2001 sessions (Lampton 1994, pp. 600–613; Kent 1999a, pp. 64–77; Kent 1999b, pp. 68–69; Foot 2000, pp. 133–136, 172–175, 194–204; Lampton 2001, pp. 59–60; Ming Wan 2001, pp. 24, 48–61, 79, 101–123; Dao 2002; Lieberthal 2002).¹⁶

By 1997, the Chinese government's lobbying efforts, particularly using its growing trade relationships with most democratic states, were showing success, with most of these states wavering in their support for resolutions on China at the UNCHR. Bilateral human rights dialogues with China were instead resumed or adopted by most, and some also adopted technical cooperation programmes as the means through which human rights concerns would be expressed.¹⁷

Responses of the Chinese government to transnational human rights network pressures from 1991 to 2003 included engaging in debates on international human rights by promoting its own human rights understandings. This resulted in the publication of twenty-one White Papers as well as numerous articles and books on human rights by Chinese academics and journalists. Although not all academic work on human rights was consistent with the government's official discourse, official publications promoted the universal human rights concept but claimed that the rights to subsistence and development were the priority rights, and a country's historical, cultural, social and economic background would necessarily influence the degree to which human rights were realised. The state sovereignty principle was emphasised, although to a decreasing degree over the 1991 to 2003 period, and the human rights records of its external critics, particularly the United States, were criticised. It was also claimed that there were no political prisoners in China, only those imprisoned for breaking the law, but acknowledgements of the need to improve human rights practices in China were made, particularly in regards to the use of torture in places of detention.¹⁸ The Chinese government also engaged in debates on international human rights norms and promoted its own understandings by hosting a number of international conferences on human rights—for example, the UN's Fourth World Conference on Women in 1995—and cultivated an alliance with other non-Western states, particularly the South-East Asian governments of Indonesia, Malaysia and Singapore (AI 1996, p. 118; *Beijing Review* 1991, p.7; HRW 1996). The success of this alliance was particularly evident at the UNCHR where the Chinese government was able to prevent a resolution on its human rights record going to the vote every year it was sponsored, except for 1995 (Foot 2000, pp. 172–175, 194–200; Ming Wan 2001, pp. 60, 113–123).

Other tactical concessions offered by the Chinese government in response to the transnational human rights network included releasing political prisoners prior to international events such as UNCHR sessions, the 1993 International Olympic Committee (IOC) vote on the city to host the 2000 Olympics and the 1994 US MFN renewal decision. Other political prisoners were released after the US–China Summit in 1997, prior to high-level US–China meetings in 2001, and at the times of the US–China talks in 2002 and 2003 (Associated Press 2003; HRIC 2003a, p. 110; Yardley 2003). The Chinese government also signed the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1997 and the International

Covenant on Civil and Political Rights (ICCPR) in 1998, and ratified the ICESCR in 2001 (AI 2003c; Li Xiaorou 2003). In addition, legislation was amended taking international human rights treaties and conventions into consideration.¹⁹

Some of the concessions offered by the Chinese government were clearly aimed at appeasing the US government and the EU, reflecting the military and economic power of the former and the significant economic power of the latter. However, tactical concessions were offered to a range of critics, not just the great powers, by the Chinese government, and both the US government and the EU were more participants in the transnational human rights network than its leaders. For example, the US government did not generally take the sole lead in lobbying and sponsoring resolutions on China at the earlier UNCHR sessions. Other governments, in particular those of the EU and Australia, were equally active in the 1990, 1992, 1993 and 1994 UNCHR sessions, if not more so. By 1997, some of the other democratic states were refusing to support a resolution at the UNCHR, including the EU and Australia, leaving the US government as the dominant supporter of the resolution (Kent 1993, p. 215; Kent 1999a, pp. 62–74; Foot 2000, pp. 121–123, 172–175, 197–204; Ming Wan 2001, pp. 48–49, 79, 101–102, 113–122). Thus the EU and other democratic states were adjusting to the preferences of the Chinese government by adopting the bilateral human rights dialogue and technical cooperation programme (TCP) process, and clearly not taking their lead from the United States (HRIC 1998a, p. 52; Woodman 2004).

Despite being one of the more active participants at the UNCHR in the early 1990s regarding resolutions on China, the EU was also more a participant than a leader of the transnational human rights network from 1989 to 2003. The commitment of some EU members to pressuring the Chinese government over its human rights record began to waver just months after the 1989 massacre. Even before most of the sanctions applied by the EU in the aftermath of the massacre had been lifted in October 1990, individual members were deviating from the coordinated response. For example, in early 1990 both the French and the Italian governments offered loans to the Chinese government. By 1991, trade and economic issues were dominating bilateral relations between EU members and China, with human rights concerns being predominantly raised in high-level meetings as only one item amongst busy agendas (Foot 2000, pp. 129, 136, 158). Thus the EU was a participant in the transnational human rights network, being particularly active in the early 1990s by sponsoring resolutions on China at the UNCHR, but also showing that it was not willing to be a leader of the network in case this jeopardised its members' growing trade relationships with China.

Consistent with the spiral model's characteristics of phase three, both the instrumental adaptation and the argumentative discourses socialisation processes were evident throughout the 1991–2003 period of the Chinese government's tactical concessions phase. However, contrary to the expectations of the spiral model regarding a target state's progress towards phase four, the Chinese government was not engaging increasingly more in argumentative discourses than in instrumental adaptation throughout the 1991–2003 period. Indications that the Chinese government was participating in instrumental adaptation included the concessions of releasing political prisoners and signing the UN human rights conventions that were timed to coincide

with the decision-making of some of its external critics—for example, on whether or not to sponsor a resolution on China at the UNCHR. These concessions occurred throughout the 1991–2003 period and were clearly aimed at appeasing external critics and not indicative of the Chinese government being convinced that it needed to improve its human rights record. Indications that the Chinese government was engaging in argumentative discourses throughout this period included the continued promotion of its preferred interpretations of international human rights norms and debating the substance of its critics' comments by publishing White Papers on human rights and issuing official responses.

By the end of 2003 there had been some indications that the Chinese government's identity was beginning to reflect more of the international human rights norms. These included acknowledgements in a number of human rights White Papers that some abuses were being carried out in China by law enforcement agencies (IOSCPRC 1992b, 1997b),²⁰ and a decreased use of the argument that human rights are an internal matter for a state (IOSCPRC 1991, 1996; Foot 2000, pp. 183–187; Ming Wan 2001, p. 18).²¹ A number of government officials acknowledged that there was a problem of corruption in the legal system and that workers' protests should be carefully dealt with (HRW 2002; Rosenthal 2003),²² and some measures were introduced towards the end of the 1991–2003 period in attempts to improve the independence of the judiciary.²³ In addition, the Chinese government showed it was willing to at least participate in regular bilateral human rights dialogue meetings and technical cooperation programmes with most of the democratic states that had previously supported resolutions on China at the UNCHR, indicating an acceptance that human rights norms were a legitimate part of foreign policy.

All of these developments highlight changes in the Chinese government's behaviour that are consistent with international human rights norms and reflect more than just an instrumental response to coercive pressure. Acknowledgements in official papers and by a number of senior government officials of human rights abuses within the justice system, and commitments to at least engage in regular bilateral talks and activities on human rights, go further than making concessions such as releasing political prisoners that are timed to influence decisions of the democratic states. Instead, these developments show an acknowledgement by the Chinese government, even though fairly minimal, that some of the structural causes of human rights abuses in China need to be addressed. This indicates a deeper acceptance of international human rights norms than just an instrumental acceptance of norms to facilitate the pursuit of national interests.

Despite these developments, however, there were continued reports of interference in the justice system by CCP officials, of the acceptance of confessions gained through the use of torture as evidence, and of those on trial being denied access to their lawyers throughout the 1991–2003 period (HRW 2003). Thus, by the end of 2003, the Chinese government's acknowledgement of the need to improve some of its human rights practices was not enough to indicate that its identity, interests and behaviours were reflecting international human rights norms to the degree that would suggest progression to the fourth phase of the spiral model, characterised by prescriptive status being accorded to human rights norms.

The conclusion that the Chinese government was not showing progress to phase four by the end of 2003 is similar to Foot's finding that by 2000 the Chinese government was between phases three and four of the spiral model. However, here it is suggested that China remains firmly in phase three rather than being between phases, the latter implying more progress than has been concluded here. Foot suggests that the criteria indicating that phase four has been reached should be less demanding and argues therefore that the Chinese government is between phases three and four (2000, p. 256). Phase four's criteria include institutional and legal changes consistent with international human rights norms that would indicate a deeper level of engagement and acceptance of international human rights norms. But these may still fall short of bringing about consistent state practices that reflect these norms, a criterion that would indicate that phase five of the model, rule-consistent behaviour, has been reached. Therefore, here it is concluded that the Chinese government continues to be in phase three of the model rather than between phases three and four.

That the Chinese government was not engaging increasingly with argumentative discourses throughout 1991–2003, and so not showing significant progress to phase four, can be explained in part by the continuity of its dominant identity as a great power, reflected in its attempts to silence its critics and to deny that abuses had been carried out. The Chinese government's great-power identity was also reflected in its promotion of its engagement with international human rights forums, thus acknowledging that being a great power included engaging in these international debates.

China's domestic structure has also contributed to the Chinese government not showing significant progress towards phase four by the end of 2003. Similarly to the Soviet Union prior to Gorbachev becoming President, China's domestic structure has been dominated by a state 'with a highly centralised decision-making apparatus', such that the top leadership has overwhelmingly been the source of policy innovations (Risse-Kappen 1994, p. 209).²⁴ Such a structure means that if a transnational human rights network is to have an impact on state policy, it needs to access the top leadership, since groups in civil society supportive of norms promoted by the network are likely to be difficult to access and unlikely to be influential over state policy. If access to the top leadership is achieved, and the necessary persuasion or pressure is provided to encourage the adoption of relevant norms, then this domestic structure facilitates the adoption of these norms (Risse-Kappen 1994, p. 210). Thus for further progress to be made in improving human rights practices in China, access to and support of the top leadership is crucial. By the end of 2003, the transnational human rights network, as evidenced by the responses of the leadership to many of the network's actions, had achieved some access to the top leadership of China. However, it was clear that by this time the latter had not adopted international human rights norms to the degree necessary for progress to phase four. Some improvements and acknowledgements of human rights abuses had been made, but from 1997 the Chinese government was also showing its ability to influence some of the enforcement mechanisms of international human rights norms.

This ability has been another factor contributing to the Chinese government's stalled progress to phase four. The behaviour of the Chinese government differs most from that expected of a target state by the spiral model in the actions it has taken to influence understandings of international human rights norms and their enforcement mechanisms, and in the level of success it has been able to secure through the latter efforts. Examples of this influence include the fact that the Chinese government was able to generate successful no-action motions to prevent resolutions critical of its human rights record being voted on at the UNCHR every year a resolution was sponsored, except 1995.²⁵ In response to Chinese lobbying, in 1993 the UNCHR sub-commission ceased to discuss country-specific situations that the UNCHR was dealing with, and in 1997 the sub-commission passed a resolution calling for an end to the 'politicisation' of the body and stating that constructive dialogue should be promoted as the means of discussing human rights issues between members, states and NGO observers. Chinese lobbying also led to the Working Group on Arbitrary Detention changing its mandate in 1997 from 'taking decisions' on whether a case was arbitrary to 'expressing its views', and from states being urged to 'comply' with recommendations to being urged to 'pay attention' (Foot 2000, pp. 174–175, 205–206; Kent 1999a, p. 55).

The most significant example of the Chinese government's ability to influence international human rights norms and the way they are enforced was evident from the late 1990s. By 1998, most support for resolutions on China at the UNCHR had ceased and China's preferred approach to human rights in international relations, the bilateral dialogue, had been adopted by most democratic states (HRIC 1998a, p. 55). Almost a decade after the Tiananmen Square massacre, the Chinese government's lobbying efforts had finally been successful in relegating discussions on its human rights practices from public international forums to confidential, behind-closed-doors meetings between government officials. This highlights the fact that clearly the Chinese government has had a significant influence over some of the structures that promote international human rights norms, and in the process it has been able to influence most democratic states in relation to how these norms should be enforced. This finding is consistent with Foot's conclusion that the Chinese government had not only become enmeshed in the international human rights regime, but had also been able to influence some of its enforcement mechanisms (Foot 2000, pp. 270–272). It is also consistent with Kent's conclusion that the Chinese government had become somewhat socialised into this regime at the same time as it had attempted to influence the operations of the UN human rights bodies (Kent 1999a, p. 55).

The Limitations of the Spiral Model

The Chinese government's influence over some of the enforcement mechanisms of international human rights norms highlights a shortcoming of the causal claims of the spiral model. It is a central claim of the spiral model that the target state's identity, interests and behaviours are increasingly influenced by ideational factors as it progresses through the model's phases (Risse & Sikkink 1999, p. 7). However, there is

no one-sided chain of cause and effect impacting on the target state. Instead, there is a constitutive relationship between the target state and international human rights norms—the identities and interests of the state are in a mutually constitutive relationship with international human rights norms. The model only conceptualises part of this relationship—namely, the influence of these norms on the identities, interests and behaviours of a target state. It does not conceptualise the influence of the target state on international human rights norms and only allows one conclusion—that target states progressing to later phases of the model themselves reinforce the validity of existing international human rights norms. This was the case for each of the target states examined by Risse *et al.* that progressed to phase four, none of which had the stature that the Chinese government has in the international system. Not only is China a permanent member of the UN Security Council, it is also an increasingly important trading partner of many democratic states. Through these attributes, as well as a strong desire to defend its international image, China has had enough power in the international system, if not to influence international human rights norms, then at least to influence some of their enforcement mechanisms.

Since the spiral model does not explore any influence of the target state over international human rights norms, it cannot account for the Chinese government's influence over some of the enforcement mechanisms of these norms. Concerning the adoption of China's preferred bilateral-dialogue approach by most of the democratic states that had previously supported resolutions on China at the UNCHR, neorealism would appear to provide a useful explanation. The Chinese government has been able to use the international power it has gained, particularly through its increasing trade relationships with many of the democratic states, to promote its preferred bilateral approach to discussing human rights concerns. Neorealism would also appear to be able to explain why the more powerful democratic states did not cease all reference to human rights in their bilateral relations with China, despite the Chinese government's extreme sensitivity to criticisms of its human rights record. The EU and its larger members as great powers would have had enough economic power to be able to resist any such pressures from the Chinese government.

However, neorealism cannot account for the less powerful democratic states continuing to place some emphasis on human rights in China in their foreign policies. Nor can it account for the fact that the democratic states did not cease their support for resolutions on China at the UNCHR until 1997–1998. This is because neorealism fails to account for the influence that international human rights norms have had over democratic states' interests, identities and behaviours, in contrast to constructivist explanations. The material interests of democratic states in furthering their economic relationships with China have certainly influenced the decisions of most of them to adopt the Chinese government's preferred bilateral-dialogue approach. But the identities of these states as promoters of international human rights norms, and thus their interests that promote some place for human rights concerns in foreign policy, have proven to be more fundamental motivating factors of their behaviour than just their material interests. If material interests were the dominant motivating factor, not only would most of the democratic states have ceased to support the

UNCHR resolutions on China much earlier than 1997–1998, the less powerful states would also have removed any place for the contentious issue of human rights in their foreign policy regarding China. Instead, reflecting the identities of these states as promoters of human rights norms, they have conducted bilateral human rights meetings and some have even funded technical cooperation programmes with China. In addition, the Chinese government was not likely to go so far as to pressure for complete silence on human rights in its bilateral relationships because its own great-power identity included the acceptance that this role required engagement with international human rights debates.

Neorealists might also claim that the Chinese government's tactical concessions were aimed at appeasing the great powers of the US government and the EU. However, this does not account for the Chinese government's responses and concessions that were aimed at a range of other state and non-state actors. Nor does it account for the influence of these other actors over the great powers on occasions, for example, when NGO lobbying was able to persuade the US government to strengthen its responses to the Chinese government in the aftermath of the Tiananmen Square massacre by imposing sanctions (Foot 2000, p. 115). Since the spiral model can account for the influence of great powers as well as less powerful states and non-state actors over the Chinese government, and for the influence of less powerful actors over great powers, it is a better explanation than neorealism in this respect. This is in contrast to Ming Wan's finding that realism explains more of the Chinese government's responses to its external critics than constructivism since China's learning had only been adaptive, reflecting its understanding that Western governments could exercise their power to support their demands for human rights improvements (Ming Wan 2001, pp. 2, 13). However, this explanation fails to take into account the influence that less powerful actors, such as international human rights NGOs, have had over the actions of the more powerful Western governments. Nor does it account for the efforts the Chinese government has put into responding to less powerful state and non-state actors than the US government and the EU. Therefore, Ming Wan's finding is not convincing. Communication about the validity and applicability of norms has its own dynamics, influenced by but not reducible to power calculations.

Conclusions

This article set out to test whether the spiral model of Risse *et al.* could be applied to China since the late 1950s. The investigation has demonstrated that the spiral model provides a valid explanation for many changes of the human rights practices of the Chinese government and its responses to its external and internal critics from the time of the 'anti-rightist' campaign in 1957–1958 to 2003. The Chinese government's ability to influence some of the enforcement mechanisms of international human rights cannot be explained by the spiral model and, at first glance, would appear to be explained instead by neorealist approaches. However, neorealism cannot account for most democratic states continuing to support resolutions on China until 1997–1998, nor for the continuing place that concerns for human rights in China have

found in the foreign policies of democratic states. Constructivist approaches highlighting the influence of identities reflecting international human rights norms over state behaviours are a more effective explanation.

The ability of a powerful Chinese government to put forward counter criticism implies that it could remain in phase three—tactical concessions—for a long time, as the conditions expected by the spiral model for progress to phase four are far from being fulfilled. Despite some changes to China's constitution and legislation being consistent with international human rights conventions and treaties, and despite the ratification of various UN human rights conventions—important characteristics of phase four—the Chinese government would appear to be a long way from achieving a rule of law with human rights institutions and complaints structures. This is indicative of the Chinese government continuing to identify with the role of being a strong, independent state that can influence the behaviour of other states—that is, of being a great power. By the end of 2003, the Chinese government's great-power identity was clearly stronger than the identity it had acquired through the socialisation processes of the international human rights regime—that of a government that promotes and respects the human rights of its citizens, including the two core rights focused on in this article. This is consistent with Thomas' finding that 'state actors will comply with those norms that are connected to the most salient of their multiple identities, and violate or seek to change norms that are connected to less salient identities' (Thomas 2001, p. 15). In addition, the domestic structure of China continued to be dominated by the state, although with further economic development this could well change. However, it does not seem likely that this situation will change for the Chinese government in the near future.²⁶

Despite the continued efforts of international human rights NGOs since 1989 to place and then keep the human rights abuses of the Chinese government on the international agenda, from 1997 democratic states considerably decreased their willingness to publicly criticise these abuses. By the end of 2003, there were no indications from these states that their support for the bilateral behind-closed-doors approach to discussing human rights in China would change. The one exception to this is that the United States continues to retain its right as superpower to criticise the human rights records of other states, including China, as it sees fit. The trade relationships between the other democratic states and China continue to grow and thus provide a potent incentive to these states to ensure that an amicable relationship with China is promoted. This is likely to mean the continued avoidance by these states of any support for resolutions on China at the UNCHR or of any other public forms of criticism. Instead, support for and participation in the bilateral-dialogue approach is likely to continue.

Democratic states have been important actors in the transnational human rights network. Responding to pressures from international human rights NGOs, the pressure placed on the Chinese government by these actors in the aftermath of the Tiananmen Square massacre was pivotal in encouraging China to make the concessions that it did. No other transnational human rights network actors have had the direct influence on other states that democratic states have had, particularly since 1989. These states have often combined an identity that promotes respect for

human rights with a degree of economic power to provide pressures that a target state has heeded more than those of non-state actors. Thus the pressures that democratic states place on a target state are crucial to the potential of that state to progress through the spiral model. In this regard, it is not yet clear that continued support for and involvement in the bilateral approach by democratic states will provide the sustained pressure needed to progress the Chinese government to phase four of the spiral model that more public forms of pressure would provide.²⁷

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Notes

- [1] Risse *et al.*'s examples were Indonesia, South Africa, the Philippines, Uganda, Guatemala, Poland, Czechoslovakia, Chile, Kenya, Tunisia and Morocco. Their study attempted to address criticisms of earlier social constructivist studies, including that the causal mechanisms through which norms influence state identities, interests and behaviours have generally been under-specified. See Checkel (1998); Johnston (2001); Yee (1996).
- [2] As the discussion of the spiral model by Risse *et al.* was published just prior to Foot's 2000 book, the model was only briefly discussed by Foot.
- [3] This technique aims to publicly exclude the target state from the "civilised community" of states' and thus hopefully elicit a deep feeling of offence in the target state's leadership that will motivate it to change its identity and interests and improve its human rights practices. See Risse & Sikkink (1999), pp. 14–15.
- [4] Despite these killings occurring in the streets of Beijing outside Tiananmen Square as well as in the square itself, the killings became known as the Tiananmen Square massacre.
- [5] This network initially focused on the human rights abuses of the Tiananmen Square massacre but later widened to include the repression of a range of individuals and groups in China, as well as abuses such as those related to population control and prison labour policies. For discussion of the Tiananmen Square massacre and international responses to it, see Chan 1991; Salisbury 1992; Nossal 1993; Kinnvall 1995; Benewick 1999; Nathan 2001.
- [6] For a discussion of the influence of domestic structure on the degree to which transnational networks can have an impact on a state, see Risse-Kappen 1994.
- [7] This is described by Keck and Sikkink as the 'boomerang pattern' (Keck & Sikkink 1998, pp. 12–13).
- [8] This was highlighted in an interview with an Amnesty International Secretariat official in London on 16 August 2004. For further details on the interactions between international human rights NGOs, human rights activists, UN bodies and officials of democratic states, see Foot (2000), pp. 116–137, 171–187, and Kent (1999a), pp. 56–79.
- [9] Japan also imposed relatively symbolic sanctions but was reluctant to condemn the events of the massacre, reflecting Japan's concern that China should not be isolated as this would affect its economic relationships. See Kesavan (1990), pp. 669–681, especially p. 671.
- [10] The other UN human rights bodies highlighting concerns regarding human rights in China included the UN Special Rapporteur on Summary and Arbitrary Executions, the Special Rapporteur on Torture, the Committee Against Torture, the Working Group on Enforced or Involuntary Disappearances, and the Sub-Commission on the Prevention of Discrimination

- and Protection of Minorities. See Tessitore & Woolfson (1990), p. 158; Tessitore & Woolfson (1991), p. 153.
- [11] This was also confirmed in an interview with the leader of the 1991 and 1992 Australian Human Rights Delegations to China in Canberra on 20 March 2002.
 - [12] Formerly known as Asia Watch.
 - [13] From an interview with an AI Secretariat official, London, 30 March 2001.
 - [14] See the annual reports of AI and HRW from 1991 to 2003 and editions of the *Human Rights in China Bulletin* published in 2000, 2001, 2002 and 2003.
 - [15] From an interview with an Amnesty International Secretariat official, London, 16 August 2004.
 - [16] The US government also sponsored a resolution on China at the 2004 UNCHR session.
 - [17] Democratic states that commenced or resumed bilateral dialogue meetings with China include the United Kingdom, Germany, Canada, Norway, Switzerland, Hungary, Brazil, Australia and Japan as well as the European Union (EU). Those that adopted technical cooperation programmes included the United Kingdom, Norway, Australia and Sweden. The responses of some of the international human rights NGOs to this development were to produce reports critical of the bilateral dialogue approach and urge the democratic states not to neglect multilateral approaches. See Free Tibet Campaign, HRIC, and International Campaign for Tibet (2003); HRIC 1998a; interview with AI Australia Government Liaison Group member, Canberra, 16 August 2001.
 - [18] These White Papers included Information Office of the State Council of the People's Republic of China (IOSCPRC) 1991, 1992a, 1996, 1997a, 1998 and 2000a,b.
 - [19] For example, the Prison Law of 1994 included some emphasis on improving the respect for rights of detainees, and the 1995 Laws on Judges and Procurators and the People's Police Law all focused on increasing the accountability of judges, prosecutors and police (see Kent [1999a], p. 204). In 1997 the Chinese government established the Criminal Law ostensibly to establish that only acts explicitly stated as crimes could be considered crimes. However, offsetting this positive development was the establishment of other legislation labelling a number of activities as crimes that had previously been considered to be disciplinary offences. The Criminal Law also replaced the widely criticised category of 'counterrevolutionary crimes' with 'crimes endangering state security' that included no definitions as to what may constitute such crimes. See also the 1994, 1995, 1998, 1999, 2002 and 2003 annual reports of Amnesty International, and the 1993, 1998, 1999 and 2003 annual reports of Human Rights Watch, for details of concessions offered by the Chinese government.
 - [20] For example, see the 1992 'Reform of criminal offenders in China' (IOSCPRC 1992b) and 'Progress in China's human rights cause in 1996' (IOSCPRC 1997b).
 - [21] For example, compare the 1995 White Paper 'The progress of human rights in China' (IOSCPRC 1991) with the 1991 White Paper on human rights.
 - [22] For example, in 2001 the Vice-President of the Supreme People's Court admitted that there was corruption in the legal system and the Supreme People's Procuratorate admitted that the CCP interfered in 'sensitive cases'. There were also reports by 2003 of police and government official awareness that workers' demonstrations needed to be handled with great care as they had much popular support.
 - [23] For example, measures introduced in 2002 included 'new disciplinary measures for corrupt or incompetent judges; new educational and competency standards for would-be judges, prosecutors, and lawyers; a code of ethics for prosecutors; the introduction of a chief prosecutor for each case rather than a prosecution committee; a prohibition against firing judges without proper legal procedures; and, as part of the effort to eliminate corruption, annual internal disciplinary court inspections' (HRW 2003).
 - [24] This is despite China's modernisation programme having led to economic decentralisation and a loosening of state control over other aspects of Chinese society. The top leadership of the CCP has continued to retain significant control over many policies, including, in particular, those related to dealing with internal and external critics of the government. For discussion of the declining role of

the state in China since the beginning of the modernisation programme and the level of control the Chinese state has retained, see Shambaugh (2000) and Naughton & Yang (2004).

- [25] In 1995 the vote on the no-action motion was tied.
- [26] Many observers of economic, political and societal change in China have concluded that the CCP will continue to retain a substantial level of control within China at least into the near future. See discussion in Nelsen (2000) and Naughton & Yang (2004).
- [27] This is consistent with the findings of Ann Kent (2001), p. 624. For further discussion of bilateral dialogue meetings and technical cooperation programmes, see HRIC (2000b); HRIC (2003c); Woodman (2004).

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